

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN WALKER,

1:02-cv-05801-AWI-GSA-PC

Plaintiff,

ORDER GRANTING MOTION TO EXTEND
DISCOVERY DEADLINE

vs.

UNITED STATES OF AMERICA,
et al.,

ORDER DENYING MOTION FOR LEAVE TO
UTILIZE THE THE COURT'S ELECTRONIC
FILING SYSTEM

(Doc. 151.)

Defendants.

New Discovery Cut-Off Date - 09-21-2010
New Dispositive Motions Deadline - 11-30-2010

Plaintiff is a former federal prisoner proceeding pro se and in forma pauperis with this civil rights action filed pursuant to Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971). Plaintiff filed the complaint initiating this action on June 25, 2002. (Doc. 1.) On May 18, 2010, plaintiff filed a motion to extend the deadline for completion of discovery, and for leave to file future motions online via e-filing. (Doc. 151.) Defendants have not filed an opposition.

I. MODIFICATION OF SCHEDULING ORDER

A court may modify a scheduling order for good cause. Fed.R.Civ.P 16(b)(4). To establish good cause, the party seeking the modification of a scheduling order must generally show that even with the exercise of due diligence, they cannot meet the requirement of the order. Johnson v. Mammoth Recreations, Inc., 975 F2d 604, 609 (9th Cir. 1992).

1 Plaintiff requests modification of the scheduling order to extend the deadline for completion of
2 discovery from June 21, 2010 until September 21, 2010. Plaintiff explains that he was released from
3 Lompoc Federal Prison after serving twelve years and placed in a residential center in San Francisco on
4 January 19, 2010. On February 8, 2010, plaintiff was placed on home confinement due to his ongoing
5 medical condition and multiple weekly medical appointments. Plaintiff recently received his legal files
6 and requires additional time to adjust to his new living situation and review his legal materials before
7 proceeding with litigation of this action. Plaintiff has shown good cause for an extension of the
8 discovery deadline. Therefore, plaintiff's motion shall be granted, and the discovery deadline shall be
9 extended. The court also finds good cause to extend the deadline for filing pretrial dispositive motions.

10 **II. MOTION TO FILE FUTURE MOTIONS ONLINE**

11 Plaintiff also requests leave to file future motions online via the court's e-filing system.
12 Pursuant to Local Rule 133, "Any person *appearing pro se* may **not** utilize electronic filing except with
13 the permission of the assigned Judge or Magistrate Judge." L.R. 133(b)(2) (emphasis added). Requests
14 to use electronic filing as an exception to the rule must be "submitted as [a] stipulation[] as provided in
15 L.R. 143 or, if a stipulation cannot be had, as [a] written motion[] setting out an explanation of reasons
16 for the exception." L.R. 133(b)(3). Plaintiff, who is proceeding *pro se*, has not offered an explanation
17 of reasons he should be allowed to utilize the court's electronic filing system. Therefore, plaintiff's
18 motion to file future motions online shall be denied.

19 **III. CONCLUSION**

20 Based on the foregoing, IT IS HEREBY ORDERED that:

- 21 1. Plaintiff's motion for extension of the deadline for completion of discovery is
22 GRANTED;
- 23 2. Plaintiff's motion for leave to utilize the court's electronic filing system is DENIED;
- 24 3. The deadline for completion of discovery, including the filing of motions to compel, is
25 extended from June 21, 2010 to **September 21, 2010**, for all parties to this action; and

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IT IS SO ORDERED.

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE